



PTO/SB/64 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)  
RWC 01065

First named inventor: Robert W. Casey

Application No.: 09/973,975

Art Unit: 2875

Filed: October 11, 2001

Examiner: Cariaso, Allen B.

Title: Fireplace Lighting System

Attention: Office of Petitions

03/19/2007 WASFAW2 00000010 09973975

**Mail Stop Petition**

01 FC:2453

750.00 OP

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

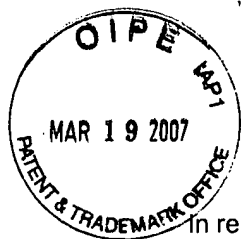
- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee —required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))**2. Reply and/or fee**A. The reply and/or fee to the above-noted Office action in  
the form of \_\_\_\_\_ (identify type of reply):☐ has been filed previously on \_\_\_\_\_☐ is enclosed herewith.B. The issue fee of \$ 0.00☒ has been paid previously on 12-07-2006☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Robert W. Casey

Serial No.: 09/973,975

Filed: October 11, 2001

Group Art Unit: 2875

Examiner: Cariaso, Alan B.

Attorney Docket: RWC 01065

Date: March 15, 2007

For: FIREPLACE LIGHTING SYSTEM

MAIL STOP ISSUE FEE  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

**PETITION TO WITHDRAW HOLDING OF UNINTENTIONAL ABANDONMENT**

Sir:

Enclosed, herewith, is a copy of a Notice of Abandonment that we received from the U.S. Patent and Trademark Office stating that the above-identified application is abandoned for failure to timely file corrected drawings.

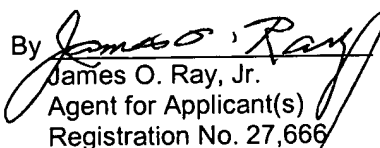
Also, enclosed is a Petition for Revival of an Application along with PTO Form 2038 in the amount of \$750.00 to cover the petition fee and one Formal Drawing Sheet marked as Replacement Sheet.

Applicant requests that the Petition Fee of \$750.00 be waived on the basis that when the Patent Office was contacted to inquire where to send the Corrected Drawings we were informed that a second Allowance was issued stating that Corrected Drawings were not needed and it was also posted on the USPTO Status Website (copy enclosed) and that the case was sent to document fulfillment center and was ready for issue.

We were therefore instructed by Blanch May and Ms. Dyson not to submit Corrected Drawings.

It is, therefore, respectfully requested that the above-referenced patent application be withdrawn from Abandonment and Petition Fee of \$750.00 be waived.

Respectfully submitted,

By   
James O. Ray, Jr.  
Agent for Applicant(s)  
Registration No. 27,666

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09/973,975 FIREPLACE LIGHTING SYSTEM

Application Data	Transaction History	Image File Wrapper	Patent Term Adjustments	Published Documents	Publication Dates	Attorney
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## Transaction History

Date	Transaction Description
12-14-2006	Dispatch to FDC
12-14-2006	Application Is Considered Ready for Issue
09-07-2006	Correction - Drawing NOT Required
12-11-2006	Issue Fee Payment Verified
12-11-2006	Issue Fee Payment Received
09-07-2006	Mail Notice of Allowance
09-07-2006	Mail Formal Drawings Required
09-06-2006	Formal Drawings Required
09-06-2006	Notice of Allowance Data Verification Completed
09-02-2006	Date Forwarded to Examiner
08-21-2006	Response after Non-Final Action
05-18-2006	Mail Non-Final Rejection
05-15-2006	Non-Final Rejection
02-28-2006	Date Forwarded to Examiner
02-21-2006	Response after Non-Final Action
12-23-2005	Mail Non-Final Rejection
12-22-2005	Non-Final Rejection
10-12-2005	IFW TSS Processing by Tech Center Complete
10-12-2005	Date Forwarded to Examiner
01-31-2005	Response after Non-Final Action
10-13-2005	Mail Notice of Rescinded Abandonment
10-12-2005	Notice of Rescinded Abandonment in TCs
06-28-2005	Petition to Revive Application - Granted
01-31-2005	Petition Entered
01-31-2005	Workflow incoming petition IFW
06-20-2003	Mail Abandonment for Failure to Respond to Office A

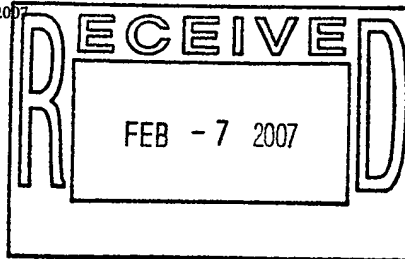


UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,975	10/11/2001	Robert W. Casey	RWC 01065	9812

7590  
JAMES RAY & ASSOCIATES  
2640 PITCAIRN ROAD  
MONROEVILLE, PA 15146



EXAMINER
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CARIASO, ALAN B

ART UNIT	PAPER NUMBER
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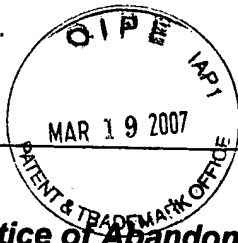
2875

MAIL DATE	DELIVERY MODE
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02/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.



# **Notice of Abandonment**

**Application No.**

09/973,975

**Examiner**

CARIASO

**Applicant(s)**

CASEY

**Art Unit**

2875

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address–**

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☒ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☒ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

lgd

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

## **Attachment to Notice of Abandonment**

### **For questions concerning the notice contact Office of Patent Publication**

**Image Assistance Center: 888-786-0101.**

Information is also available on the USPTO Internet web site:  
<http://www.uspto.gov/web/patents/pubs/abandonnotice.html>

### **Respond to the Notice of Abandonment by one of the following:**

#### **1. Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I and 37 CFR § 1.181) No fee required**

Where an applicant contends that the application is not in fact abandoned (e.g., a reply was in fact filed), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181 to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to 37 CFR § 1.8(b) Certificate of Mailing, 37 CFR § 1.10 "Express Mail" mailing or MPEP 503 Postcard Receipt as Prima Facie Evidence. The petition should be addressed as follows:

By mail: Mail Stop: Issue Fee, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 571-273-8300

#### **2. Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (MPEP 711.03(c) II and 37 CFR § 1.181). No fee required**

Where an applicant contends that the original Notice of Allowance and Fee(s) Due was never received, if adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 571-273-8300

#### **3. Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)**

Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) or (b) (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. The text of these rules is available on the USPTO Internet Web site. Forms for these petitions, "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a)," PTO/SB/61, and "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," PTO/SB/64, are available in the forms section of the USPTO website: <http://www.uspto.gov>.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 571-273-8300

**Note:** Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment

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COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
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on March 15-2007  
Maureen Mastromonaco